

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 12, 2021

3:22 p.m.

DRAFT

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage
Representative Liz Snyder
Representative David Nelson
Representative James Kaufman
Representative Ken McCarty

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 159

"An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 58

"An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 44

"An Act relating to the practice of accounting."

- MOVED HB 44 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 159

SHORT TITLE: CONSUMER DATA PRIVACY ACT
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/31/21	(H)	READ THE FIRST TIME - REFERRALS
03/31/21	(H)	L&C, JUD, FIN
04/23/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/23/21	(H)	Heard & Held
04/23/21	(H)	MINUTE(L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124
05/05/21	(H)	Heard & Held
05/05/21	(H)	MINUTE(L&C)
05/12/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 58

SHORT TITLE: CONTRACEPTIVES COVERAGE: INSURE; MED ASSIST
SPONSOR(s): CLAMAN

02/18/21	(H)	PREFILE RELEASED 1/15/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	HSS, L&C
04/15/21	(H)	HSS AT 3:00 PM DAVIS 106
04/15/21	(H)	Heard & Held
04/15/21	(H)	MINUTE(HSS)
04/20/21	(H)	HSS AT 3:00 PM DAVIS 106
04/20/21	(H)	Moved CSHB 58(HSS) Out of Committee
04/20/21	(H)	MINUTE(HSS)
04/22/21	(H)	HSS RPT CS(HSS) 5DP 2DNP
04/22/21	(H)	DP: FIELDS, SPOHNHOLZ, MCCARTY, ZULKOSKY, SNYDER
04/22/21	(H)	DNP: PRAX, KURKA
05/03/21	(H)	L&C AT 3:15 PM BARNES 124
05/03/21	(H)	<Bill Hearing Canceled>
05/07/21	(H)	L&C AT 8:00 AM GRUENBERG 120
05/07/21	(H)	Heard & Held
05/07/21	(H)	MINUTE(L&C)
05/12/21	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 44

SHORT TITLE: PRACTICE OF ACCOUNTING; LICENSURE
SPONSOR(s): THOMPSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, L&C
03/11/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/11/21	(H)	Heard & Held
03/11/21	(H)	MINUTE(STA)

03/16/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/16/21	(H)	Heard & Held
03/16/21	(H)	MINUTE(STA)
03/23/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/23/21	(H)	Moved CSHB 44(STA) Out of Committee
03/23/21	(H)	MINUTE(STA)
03/24/21	(H)	STA RPT CS(STA) 6DP 1AM
03/24/21	(H)	DP: CLAMAN, STORY, KAUFMAN, VANCE, TARR, KREISS-TOMKINS
03/24/21	(H)	AM: EASTMAN
05/03/21	(H)	L&C AT 3:15 PM BARNES 124
05/03/21	(H)	Heard & Held
05/03/21	(H)	MINUTE(L&C)
05/07/21	(H)	L&C AT 8:00 AM GRUENBERG 120
05/07/21	(H)	Heard & Held
05/07/21	(H)	MINUTE(L&C)
05/12/21	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

ASHKAN SOLTANI, Fellow
Institute for Technology, Law, and Policy
Georgetown University Law Center
Washington, D.C.

POSITION STATEMENT: Provided information during the hearing on HB 159.

JOHN HALEY, Assistant Attorney General
Special Litigation and Consumer Protection
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Detailed the sectional analysis of HB 159 on behalf of the House Rules Standing Committee by request of the governor.

REPRESENTATIVE MATT CLAMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 58.

LIZZIE KUBITZ, Staff
Representative Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Detailed the sectional analysis for HB 58 on behalf of Representative Claman, prime sponsor.

LORI WING-HEIR, Director
Division of Insurance
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 58.

REPRESENTATIVE STEVE THOMPSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, provided information on HB 44.

SARA CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 44.

CORI HONDOLERO, Executive Administrator
Board of Public Accountancy
Divisions of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 44.

KAREN TARVER, CPA
Elgee Rehfeld, LLC
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 44.

LESLIE SCHMITZ, Chair
Board of Public Accountancy
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 44.

THOMAS NEILL, CPA, Chair
Uniform Accountancy Act Committee
American Institute of Certified Public Accountants
Seattle, Washington

POSITION STATEMENT: Answered questions during the hearing on HB 44.

ACTION NARRATIVE

[3:22:09 PM](#)

CO-CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives McCarty, Nelson, Schrage, Fields, and Spohnholz were present at the call to order. Representatives Snyder and Kaufman arrived as the meeting was in progress.

HB 159-CONSUMER DATA PRIVACY ACT

[3:23:01 PM](#)

CO-CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 159, "An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

[3:23:52 PM](#)

ASHKAN SOLTANI, Fellow, Institute for Technology, Law, and Policy, Georgetown University Law Center, shared that he is a technologist and researcher with over 20 years' experience in technology, privacy, and behavioral economics. He said he has served as Chief Technologist with the Federal Trade Commission (FTC) and Senior Advisor in the White House Office of Science and Technology Policy, co-authored the California Consumer Privacy Act (CCPA) and California Privacy Rights Act (CPRA), and is the co-creator of the proposed Global Privacy Control standard, which creates a mechanism by which consumers can communicate their privacy preferences. Mr. Soltani gave a brief history of CCPA and described the lobbying efforts of businesses against data privacy.

[3:28:07 PM](#)

MR. SOLTANI described the lobbying efforts business engage in to prevent or weaken data privacy laws, including strategies to battle CPRA by introducing weaker legislation in other states in an effort to bring down the overall standard of privacy and justify federal preemption. He pointed out that there have been

letters to the committee from business interests advocating for Alaska to adopt the Virginia model of data privacy, the Virginia Consumer Data Protection Act (VCDPA), which was drafted largely by Amazon and other large industry interests. He expressed approval of HB 159's definition of "pseudonymous" information, which does not refer to individuals by name but nonetheless permits data brokers to exchange information about individuals. The definition responds to the realities of current digital advertising practices, he said, in which online tracking and profiling relies on pseudonyms such as numeric identifiers corresponding to an individual or a device.

MR. SOLTANI expressed approval of the addition of "authorized agents for consumer rights," and he shared that such an addition may relieve consumers of the onerous task of requesting their information from every business that has it. Allowing consumers to exercise their rights through the use of an authorized agent may assist in the development in new industry standards and market solutions to innovate new ways to manage consumer data. He then pointed out that HB 159 also provides consumers with the right to know who has their information beyond the business that initially collected it; having that knowledge, he said, may allow consumers to request the deletion of their information or opt out of future sales.

MR. SOLTANI suggested several changes to HB 159. He suggested including the Global Privacy Control (GPC), which helps implement opt-out preferences for businesses; instead of having to go through the onerous work of opting out on each individual website, he said, GPC would integrate with a consumer's Internet browser. He stated that 40 million consumers already use browsers with built-in privacy controls; GPC would allow a consumer to click one button to opt out of all online tracking. He said the California Office of the Attorney General has recognized GPC as a valid standard and will begin enforcement against companies that don't recognize GPC's opt-out function.

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MR. SOLTANI suggested that the proposed legislation be amended to update the definition of "sale" to include "sale and sharing." He said the business industry has begun arranging contracts for the sharing of personal information, indicating in the contract that a transaction was a "no value" exchange in order to circumvent the initial prohibitions in CCPA.

MR. SOLTANI addressed verified user requests and said that the proposed legislation should not require customers to submit verified requests to opt out of business use of their data. He noted that verified requests for access and deletion of data are important since those rights, if exercised fraudulently, can adversely impact the individual; however, simply asking a business to not use personal data does not create the same risk, he said, and does not need the same level of verification. He pointed out that the proposed legislation should include that any information collected by the business for the purpose of opting out of data sale or sharing cannot be used for another purpose. As an example, he said, clicking "unsubscribe" on a spam email verifies to the company that their emails are getting through to a live person; the company will then sell the list of email addresses to another company, which repeats the cycle.

MR. SOLTANI addressed the possible inclusion of nonprofit organizations, noting that they engage in the same practice of data sharing and sale as for profit businesses. He said that there is currently no state or federal oversight of nonprofits' use of data information. He then stated that the largest component of HB 159 would be enforcement; whether the Office of the Attorney General has the right to enforce the law, or whether there would be a private right of action.

[3:38:04 PM](#)

CO-CHAIR FIELDS expressed that Alaska's Office of the Attorney General doesn't currently have the technical expertise to effectively enforce the parameters under HB 159. He asked, "How do we put that into law, to collect an adequate amount of revenue to sustainably fund an adequately-sized cadre of ... [attorneys general] who will make sure this law is being followed?"

MR. SOLTANI said that the people qualified to do such work would normally receive "three or four times" the salary that a government agency could pay; not only the number of staff, but also the expertise of the staff, is critical to the sustainability of the proposed legislation. He said that one model is to fine the company a percentage of the money it receives from the sale of the information; however, in many cases the value of the transaction is not monetary. He also discussed an "eat what you kill" model, in which the revenue collected by fining companies is then used to build staff and expertise.

[3:42:28 PM](#)

REPRESENTATIVE MCCARTY asked what features a consumer gives up when implementing the Global Privacy Control (GPC) in an Internet browser.

MR. SOLTANI replied that current law requires companies to provide a link for consumers to opt out of the sale of their information; GPC, he said, essentially clicks that button for the consumer. He said that the question now is, "What happens after the button is clicked?" He stated that HB 159 would allow companies to charge consumers different rates in direct relation to the consumer's choice to opt out of data sharing. For example, he said, "When a business encounters a Global Privacy Control they could say, 'We've noticed you would like to opt out of the sale of your personal information. Would you like to either disable that for our site and permit us to opt in, or would you like to pay a fee?' or whatever else the law permits when a consumer opts out." He clarified that GPC is like a little robot that clicks the "do not sell" link. He said that most websites honor GPC without any extra fees to the user; however, while the current ecosystem of the data-supported ad economy exists on the sale of personal information, there are new, innovative technologies that attempt to advertise without using personal information in the same manner. Development in contextual ads, or ads based on the website a consumer visits, is a way for companies to sell advertisement without using a consumer's personal information. He said companies are innovating ways to practice sustainable advertising in the same way there are innovations in sustainable energy.

REPRESENTATIVE MCCARTY asked whether there exists the practice of increasing prices for those who have opted out of having their data sold.

MR. SOLTANI responded that the law permits that a company may charge a person a non-usurious, non-exploitative fee in direct relation to the sale of their personal information. He said that in California, if a company's only revenue is from their sale of user information, the law permits the company to charge the customer for the use of the website. He pointed out that companies are exploring models such as subscription services or per-use fees.

[3:47:58 PM](#)

CO-CHAIR FIELDS asked about the best practices for the protection of children's information.

MR. SOLTANI replied that he believes the "opt-in" requirement is critical. He said discussed the civil penalty judgement in FTC v. Google, No. 1:19-cv-2642 (D.D.C. Sept. 4, 2019), and he shared the argument that a website that contains children's content should be held to a higher standard.

[3:50:22 PM](#)

REPRESENTATIVE SNYDER asked for a written summary or resources pertaining to the recommendations that have been addressed in the hearing on HB 159.

CO-CHAIR SPOHNHOLZ asked Mr. Soltani to email his written testimony.

MR. SOLTANI agreed.

CO-CHAIR FIELDS noted that his staff has been keeping track of all the recommendations from Mr. Soltani and the previous experts, as well as the businesses that have provided testimony, and he said he will be considering those recommendations in drafting a committee substitute that would protect Alaska's businesses while ensuring adequate oversight of outside technology companies.

MR. SOLTANI added that, since the passage of CCPA and CPRA, the business industry will fight legislation in every state. He pointed out that the issue is so technically nuanced that California's legislation almost included a seven-word amendment that would have nullified the standards in the legislation.

CO-CHAIR FIELDS said that his intent is to work through the committee substitute with the experts.

[3:52:34 PM](#)

CO-CHAIR SPOHNHOLZ stated that the committee would hear another portion of the sectional analysis.

[3:53:01 PM](#)

JOHN HALEY, Assistant Attorney General, Special Litigation and Consumer Protection, Department of Law, resumed his presentation, which commenced on April 23, 2021, of the

sectional analysis of HB 159 on behalf of the House Rules Standing Committee by request of the governor. He said that he previously ended his presentation just before "Article 2. Activities and penalties regarding personal information."

[3:53:24 PM](#)

REPRESENTATIVE SNYDER referenced Sec. 45.49.015 and asked for a definition of "person."

MR. HALEY replied that "person" would be defined as either a corporation or any "natural person." He said that business not qualifying under the definition of "business" would be "persons" under the section in question.

REPRESENTATIVE SNYDER said she was trying to understand a scenario involving businesses and "persons."

MR. HALEY responded that he hasn't thought of a situation in which a business would disclose a person's personal information to a legislator. He said the main intent is to address businesses sharing information with corporations that wouldn't normally meet the definition of "business." He said that an individual should be able to understand which, and how many, businesses have their personal information by making a request of the initial collector. The sharing of information with smaller corporations who don't meet the definition of "business" or with "individual humans," he said, is a scenario on which he would need to consider further.

[3:56:24 PM](#)

MR. HALEY resumed detailing the sectional analysis, which read as follows [original punctuation provided]:

Sec. 45.49.100. Retaliation prohibited.

As the subject suggests, this section prohibits a business from retaliating against a consumer that exercises their rights under this chapter and lists examples of activities that may be considered retaliation. A business may, however, provide a different rate or quality if it is reasonably related to the value provided to the business by the consumer's data. A business may also provide consumers with a financial incentive for collection, sale, or retention of information, so long as the business

notifies the consumer of the incentives and obtains consent before entering a customer into a financial incentive program. Financial incentive practices may not be unjust, unreasonable, coercive, or usurious.

[3:58:37 PM](#)

CO-CHAIR SPOHNHOLZ pointed out that page 15, lines 7-8, of the text of HB 159, says "(2) charging different prices or rates for goods or services, including through the use of discounts or other benefits or imposing penalties;". She pointed out that page 15, lines 13-16, says that business may charge different prices or rates. She asked Mr. Haley to comment on the apparent conflict between the two statements.

MR. HALEY responded that the intent is to provide a general rule with a condition that the difference in price or rate must be reasonably related to the value provided by the sale of data.

[3:59:46 PM](#)

REPRESENTATIVE KAUFMAN asked whether the problem is in the writing or in the "pure difficulty" of the concept. He said, "To say that it has to be equal, but then it can be different, that just seems like a stiff challenge."

MR. HALEY replied that the general rule is that while a business could not retaliate against a person for disallowing the sale of their information, a business may charge a different rate or provide a different level of service if the difference is reasonably related to the value of the data.

[4:00:59 PM](#)

REPRESENTATIVE SCHRAGE asked Mr. Haley whether there is a reason that outright denying a good or service would not be allowed.

MR. HALEY responded that the subsection is attempting to create a scenario where consumers are always going to be able to have at least some ability to access various services and social media companies without having to give up their privacy rights. If denying a service was included, he said, it wouldn't fit well within the concept because it's not possible to provide a different rate for a service when that service is denied altogether. He said that complete denial of a service would mean that consumers could be faced with losing a service they've used for years.

4:03:01 PM

CO-CHAIR SPOHNHOLZ commented that a business could force acceptance of data sharing by refusing to continue providing services.

4:03:47 PM

REPRESENTATIVE SCHRAGE expressed the idea of a social media site such as Facebook being so integrated into the fabric of society that it could be regulated like a utility. He asked, "Is it a private business that has the ability to exclude access ... or is it a common piece of infrastructure to society that should be regulated on a federal level?"

4:04:24 PM

CO-CHAIR FIELDS pointed out that Facebook can't be used on a smart phone unless it has access to an individual's private phone contacts. He said he would like to see functional federal regulations but, he said, "Congress is broken, so I think we have no choice but to do it in Alaska."

4:05:01 PM

REPRESENTATIVE KAUFMAN shared his belief that social media companies regularly ban users because of their political beliefs. He mentioned the possibility of a consumer bill of rights and said that there may be "traps" which may never be reconciled within the current structure.

4:05:55 PM

CO-CHAIR SPOHNHOLZ opined that the challenge with broader principles is that there would be endless litigation.

4:06:20 PM

MR. HALEY resumed his presentation of the sectional analysis, which read as follows [original punctuation provided]:

Sec. 45.49.110. Transfer of information in a merger or acquisition.

This section authorizes a business to transfer personal information to a third-party as part of a

merger or acquisition of all or part of the business. If the new owner decides to change the policy for use or sharing of the personal information in a material way, they must notify the consumer before making the change and ensure that existing customers can easily exercise their rights under this chapter. The new owner may not make material, retroactive privacy policy or other changes in a manner that violates state law.

Sec. 45.49.120. Duty to maintain reasonable security measures.

Under this section, a business that owns, licenses, or maintains personal information has to implement and maintain reasonable security procedures to protect the information from unauthorized access, destruction, use, modification, or disclosure.

[4:07:37 PM](#)

REPRESENTATIVE SCHRAGE asked whether there is an advocacy group that has set some standard that could be referred to as "reasonable." He then asked Mr. Haley to comment on the definition of "reasonable" from the perspective of the Department of Law.

MR. HALEY responded that concepts such as two-step authentication exist for privacy protections. He pointed out that, while the term "reasonable" is a term that has a degree of vagueness, it's a common standard in law and is necessary because standards change over time. He said that two-step authentication has become standard because of the way scammers' techniques have developed over time. He said that as technology changes, standards of what is reasonable also change.

REPRESENTATIVE SCHRAGE commented that the Federal Trade Commission may have such standards in place.

[4:09:31 PM](#)

MR. HALEY resumed his presentation of the sectional analysis for HB 149, which read as follows [original punctuation provided]:

Sec. 45.49.130. Violations.

This section makes a violation of this chapter a violation of the Unfair Trade Practices and Consumer Protection Act under AS 45.50.471 - 45.50.561. This section also creates a presumption that a consumer whose personal information is subjected to unauthorized activity has suffered a loss of \$1 or an amount proven at trial. The number of violations may be counted by each action or omission, each person affected, or each day the activity continues, whichever is greater. Funds recovered as a result of an action under this section may be appropriated to the consumer privacy account created in AS 45.49.140, below, for the Department of Law to offset costs incurred in connection with enforcing this chapter.

MR. HALEY said that in order to bring a claim against a business under the Unfair Trade Practices and Consumer Protection Act, an individual would be required to show an ascertainable loss of money or property. He said that it's very likely that a consumer would not be able to demonstrate such a loss because a business may refuse to respond to a disclosure request. He pointed out that if an action is brought under AS 45.50.531, the Private Person Unfair Trade Practices Act, an automatic loss of \$1 is created in order to get a business into court.

[4:13:57 PM](#)

CO-CHAIR SPOHNHOLZ announced that HB 159 was held over.

HB 58-CONTRACEPTIVES COVERAGE: INSURE; MED ASSIST

[4:14:18 PM](#)

CO-CHAIR SPOHNHOLZ announced that the next order of business would be HOUSE BILL NO. 58, "An Act relating to insurance coverage for contraceptives and related services; relating to medical assistance coverage for contraceptives and related services; and providing for an effective date."

[4:14:51 PM](#)

REPRESENTATIVE MATT CLAMAN, Alaska State Legislature, as prime sponsor, introduced HB 58. He said that HB 58 would bring Alaska's statutes into consistency with the federal contraceptive coverage guarantee, and mandate coverage for dispensing up to 12 months of contraceptives at a time. He said Alaskans often face challenges in trying to access

contraceptives; for women in rural areas, multiple trips to a pharmacy can be an insurmountable barrier to consistent contraception, and a one-year's supply would help balance health with work and family life. He said that research shows that women who are allowed a 12-month supply of contraceptives have a 30 percent drop in unplanned pregnancy and a 46 percent drop in the likelihood of abortion, compared to women who are allowed only a one- or three-month supply. He pointed out that HB 58 would also save money for the state, due to a reduction in unplanned pregnancies. He said that improved access to contraception improves health for women and families, and he pointed out that HB 58 would support victims of reproductive coercion, or "contraceptive coercion," by providing long-acting reversible contraceptives (LARCs) or a 12-month supply of birth control. He said that a strong, longstanding body of evidence recognizes contraceptives as vital components of public health care that help women avoid unintended pregnancy and improve birth spacing, which have positive consequences for women, families, and society. The evidence strongly suggests that insurance coverage of contraceptive services, he said, is a low-cost or even cost-saving means of helping women.

[4:20:49 PM](#)

LIZZIE KUBITZ, Staff, Representative Matt Claman, Alaska State Legislature, detailed the sectional analysis for HB 59 on behalf of Representative Claman, prime sponsor. She read the sectional analysis, which read as follows [original punctuation provided]:

Section 1

AS 21.42.427. Coverage for contraceptives.

Amends AS 21.42 by adding a new section which (1) requires a health care insurer to provide coverage for prescription contraceptives and medical services necessary for those products or devices (including over-the-counter emergency contraception that was obtained without a prescription); (2) requires reimbursement to a health care provider or dispensing entity for dispensing prescription contraceptives intended to last for a 12-month period for subsequent dispensing; (3) prevents an insurer from offsetting the costs of compliance; (4) prevents an insurer from restricting or delaying coverage for contraceptives; (5) if the provider recommends a particular service or FDA-approved item based on a determination of medical necessity, the plan or issuer must cover that service

or item without cost sharing; and (6) exempts religious employers if certain criteria are met.

Section 2

AS 29.10.200. Limitation of home rule powers.

Amends AS 29.10.200 by adding a provision applying to home rule municipalities.

Section 3

AS 29.20.420. Health insurance policies.

Amends AS 29.20 by adding a new section clarifying that municipal health care insurance plans that are self-insured are subject to the requirements of sec. 1.

Section 4

AS 39.30.090. Procurement of group insurance.

Clarifies that a group health insurance policy covering employees of a participating governmental unit is subject to the requirements of sec. 1.

Section 5

AS 39.30.091. Authorization for self-insurance and excess loss insurance.

Clarifies that a self-insured group medical plan covering active state employees provided under this section is subject to the requirements of sec. 1.

Section 6

AS 47.07.065. Payment for prescribed drugs.

Requires the Department of Health and Social Services to pay for prescription contraceptives intended to last for a 12-month period for subsequent dispensing for eligible recipients of medical assistance, if prescribed to and requested by the recipient, as well as medical services necessary for those products or devices. The Department of Health and Social Services must also provide coverage for over-the-counter emergency contraception that was obtained without a prescription.

Section 7

Uncodified law - applicability

Requires the Department of Health and Social Services to immediately amend and submit for federal approval a state plan for medical assistance coverage consistent with sec. 6 of this Act.

Section 8

Uncodified law - applicability

Makes sec. 6 of the Act conditional on the approval required under sec. 7 of the Act.

Section 9

If sec. 6 of this Act takes effect, it takes effect on the day after the date the revisor of statutes receives notice from the commissioner of health and social services under sec. 8 of this Act.

[4:24:15 PM](#)

REPRESENTATIVE MCCARTY asked whether insurance companies would be required to pay for 12 months of contraceptives. He expressed the concern that a person may receive the full prescription and then no longer be covered by insurance, and he asked whether there exists a requirement for other medications to be covered in a similar manner.

REPRESENTATIVE CLAMAN responded that a person would be able to continue taking their prescribed medication in such a scenario. He pointed out that if someone receives 12 months of birth control, then changes jobs after six months, the new employer's insurance wouldn't have to pay for the birth control the person was previously prescribed.

REPRESENTATIVE MCCARTY asked what concerns have been expressed by representatives in the insurance industry.

REPRESENTATIVE CLAMAN replied that the insurance industry has expressed no concerns.

[4:27:12 PM](#)

The committee took a brief at-ease.

[4:27:35 PM](#)

LORI WING-HEIR, Director, Division of Insurance, Department of Commerce, Community, and Economic Development, said that insurance companies are aware of the existence of the proposed legislation, but that they have not contacted the Division of Insurance with any comments.

[4:28:44 PM](#)

CO-CHAIR SPOHNHOLZ noted that this is the third time that the sponsor has introduced the proposed legislation. She commented that other medications are available for longer periods of time.

MS. WING-HEIR said, "That is a very good point." She pointed out that most prescriptions have a 90-day or even a six-month supply, and she said that the Division of Insurance encouraged health care providers to allow longer supplies of medication during the pandemic.

[4:29:42 PM](#)

REPRESENTATIVE MCCARTY expressed concerns about setting a precedent for longer supplies of medications.

MS. WING-HEIR explained that insurance plans operate on either a fiscal year or calendar year. If a patient has an appointment in November and receives a three-month supply of medication, she said, the patient may have a new insurer or plan on January 1. She stressed that it's quite common for insurance coverage to change midway through a prescription supply.

[4:31:10 PM](#)

REPRESENTATIVE NELSON asked for information on receiving medications via mail.

REPRESENTATIVE CLAMAN replied that his understanding is that insurers prefer mail order plans due to lower costs, but that mail order plans are optional.

REPRESENTATIVE NELSON expressed that mail order would be a better way to receive medications.

REPRESENTATIVE CLAMAN responded that he always has been a supporter of mail order, but that many patients want a consultation with a pharmacist, and he wouldn't want to stand in the way of consumer choice.

[4:34:06 PM](#)

CO-CHAIR FIELDS interjected that he contacted a representative from Aetna, and he said the company expressed that it was "neutral" on HB 58.

CO-CHAIR SPOHNHOLZ pointed out that the insurance industry is well-represented, and the committee and sponsor would be aware of any concerns.

[4:34:26 PM](#)

REPRESENTATIVE SNYDER added that the provisions under HB 58 would result in fewer visits to the doctor, which would help recover any costs to the insurance company. She pointed out that several states allow contraceptive coverage for periods of between 15 and 22 months.

CO-CHAIR SPOHNHOLZ added that reducing unintended pregnancies would also save money for insurance companies.

[4:35:31 PM](#)

REPRESENTATIVE KAUFMAN referred to page 1, line 11, of the text of the proposed legislation and asked Representative Claman about the inclusion of emergency contraception.

MS. KUBITZ responded that the inclusion of emergency contraception was made during the hearings of HB 58 in the House Health and Social Services Standing Committee. She said the intent of the inclusion was to allow someone who needs emergency contraception to purchase it over-the-counter and then submit to the insurance company for reimbursement.

REPRESENTATIVE KAUFMAN asked about being covered by insurance with which a patient is "philosophically aligned."

MS. KUBITZ referenced the religious exemption discussed in the sectional analysis, and she pointed out that employers that object to emergency contraception have the option to choose a certain plan.

[4:37:47 PM](#)

REPRESENTATIVE CLAMAN suggested a discussion with Ms. Wing-Heir on religious exemptions for contraceptive coverage.

[4:38:18 PM](#)

MS. WING-HEIR stated that an employer does not have to offer employees a plan that includes contraception.

REPRESENTATIVE KAUFMAN asked for clarification.

MS. WING-HEIR responded that an employer chooses an insurance plan for a group.

[4:40:13 PM](#)

REPRESENTATIVE KAUFMAN referred to the text of the proposed legislation, page 2, lines 28-30, which read as follows:

In this subsection, "cost containment" means incentivizing the use of generic or lower cost medications or the use of health care providers or pharmacies that offer services or prescriptions at a lower negotiated rate.

REPRESENTATIVE KAUFMAN asked whether the language "avoids" other opportunities for cost containment.

MS. KUBITZ responded that the inclusion of that language was a compromise. She said that the sponsor wanted the option to encourage the use of generic medications.

REPRESENTATIVE KAUFMAN expressed the opinion that, as written, it looks like it is defining cost containment.

[4:41:53 PM](#)

CO-CHAIR SPOHNHOLZ shared her understanding that this provision relates directly to contraception, so that cost containment measures could exist without interfering in the doctor-patient relationship. She pointed out that birth control has uses other than simply preventing pregnancy, and generic options sometimes don't meet the therapeutic need.

[HB 58 was held over.]

HB 44-PRACTICE OF ACCOUNTING; LICENSURE

[4:43:07 PM](#)

CO-CHAIR SPOHNHOLZ announced that the final order of business would be HOUSE BILL NO. 44, "An Act relating to the practice of accounting."

[Before the committee was CSHB 44(STA).]

[4:43:54 PM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, as prime sponsor of HB 44, thanked the committee.

[4:44:36 PM](#)

CO-CHAIR FIELDS explained that the proposed legislation would increase oversight of out-of-state accountants who provide services within Alaska.

[4:45:19 PM](#)

REPRESENTATIVE MCCARTY shared his support for the proposed legislation.

[4:45:35 PM](#)

CO-CHAIR SPOHNHOLZ expressed understanding that the proposed legislation would eliminate the licensing fee for out-of-state accountants. She asked how the state would have the resources for enforcement.

[4:46:42 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing (CBPL), Department of Commerce, Community, and Economic Development, said that CBPL is not anticipating a spike in investigations as a result of the proposed legislation; other states have not seen an increase in investigations; there have been no demonstrable investigations of out-of-state practitioners; and eliminating this particular permit would save the resources normally used in the front-end audit process.

[4:47:52 PM](#)

CO-CHAIR SPOHNHOLZ shared that there exists currently a \$300 application fee and a \$900 permit for out-of-state partnerships and limited liability companies. She asked whether those fees would continue to exist under the proposed legislation.

MS. CHAMBERS deferred to Ms. Hondolero.

[4:48:29 PM](#)

CORI HONDOLERO, Executive Administrator, Board of Public Accountancy, Divisions of Corporations, Business, and

Professional Licensing, Department of Commerce, Community, and Economic Development, responded that those fees would no longer be incoming. She said that the number of licenses total 98, with an expiration date of December 31, 2021.

CO-CHAIR SPOHNHOLZ noted that eliminating the fees for out-of-state licensees would result in a revenue loss of \$88,000.

MS. HONDOLERO replied that the amount sounds accurate.

[4:50:14 PM](#)

CO-CHAIR FIELDS asked Ms. Tarver to explain the ways in which the proposed legislation would provide greater oversight of firms based outside Alaska.

KAREN TARVER, CPA, Elgee Rehfeld, LLC, pointed out that AS 08.04.421, which is the out-of-state permit and exemption section, would be deleted in its entirety. The way the statute currently reads, she said, an exemption is allowed for out-of-state firms that are not providing audit services. The proposed changes include an exemption for all attestation services, which include audit services as well as financial statement review, review of prospective financial statements, other engagements done in accordance with a public accounting oversight board, and any exemption examinations that follow the standards of attestation engagements as published by AICPA. She explained that the new statute would let firms know that if a licensee is practicing in Alaska and is providing anything in the practice of public accounting as defined by statute, that licensee is accepting Alaska's statutes and regulations.

[4:54:04 PM](#)

CO-CHAIR SPOHNHOLZ stated that she is concerned about the possibility of reducing revenues to CBPL by \$88,000.

MS. CHAMBERS explained that the Board of Public Accountancy at CBPL has a surplus of several hundred thousand dollars, which should remain for approximately the next four to six years, at which time firm mobility in Alaska may be reexamined. She pointed out that it's the opinion of CBPL and the board that the lack of license revenue is counteracted by the ability of Alaska practitioners to work in other states.

[4:57:54 PM](#)

LESLIE SCHMITZ, Chair, Board of Public Accountancy, Division of Corporations, Business, and Public Licensing, Department of Commerce, Community, and Economic Development, agreed with Ms. Chambers' assessment that the loss of fees is worth the expansion of mobility for Alaska-based accountants. She pointed out that the board would have more oversight over the services provided by out-of-state accountants to Alaskan clients.

CO-CHAIR SPOHNHOLZ asked whether Ms. Schmitz studied how firm mobility works in smaller states.

MS. SCHMITZ deferred to Mr. Neill.

[5:00:09 PM](#)

THOMAS NEILL, CPA, Chair, Uniform Accountancy Act Committee, American Institute of Certified Public Accountants (AIPCA), said that he checked with AIPCA staff regarding the existence of feedback or complaints on the specific issue of mobility. Hearing none, he said, he approached Jennifer Sciba, Deputy Director of the Washington State Board of Accountancy, who said that there have been very few, if any, complaints about out-of-state firms practicing within states that have adopted firm mobility. He said, "There's no statistical data because, from what I'm hearing, it's just not happening."

[5:02:29 PM](#)

CO-CHAIR FIELDS moved to report CSHB 44(STA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 44(STA) was reported out of the House Labor and Commerce Standing Committee.

[5:03:19 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:03 p.m.